

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kathryn Duffy	Team: Team # 1	CCRB Case #: 201007270	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/27/2010 9:15 PM	Location of Incident: Harlem River Drive and West 155th Street; 33rd Precinct stationhouse	Precinct: 33	18 Mo. SOL 11/27/2011	EO SOL 11/27/2011	
Date/Time CV Reported Sat, 05/29/2010 11:47 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 05/29/2010 11:47 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Elvin Gomez	09911	938582	033 PCT
2. POM Jeremy Veit	18814	935920	33 PCT
3. LT Osvaldo Nunez	00000	918086	33 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Elvin Gomez	Force: At the intersection of Harlem River Drive and West 155th Street, PO Elvin Gomez used physical force against § 87(2)(b)	
B.POM Elvin Gomez	Force: At the intersection of Harlem River Drive and West 155th Street, PO Elvin Gomez pointed his gun at § 87(2)(b) and § 87(2)(b)	
C.POM Elvin Gomez	Discourtesy: At the intersection of Harlem River Drive and West 155th Street, PO Elvin Gomez spoke obscenely and rudely to § 87(2)(b)	
D.POM Jeremy Veit	Force: At the intersection of Harlem River Drive and West 155th Street, PO Jeremy Veit struck § 87(2)(b) with a blunt instrument.	
E.LT Osvaldo Nunez	Discourtesy: At the 33rd Precinct stationhouse, Lt. Osvaldo Nunez spoke obscenely and rudely to § 87(2)(b)	

Case Summary

§ 87(2)(b) made the following complaint of police misconduct to IAB on May 27, 2010. His complaint was assigned log number 10-27027 and forwarded to the CCRB, where it was received on June 3, 2010. § 87(2)(b) made a duplicate complaint on the CCRB call processing system on May 29, 2010. § 87(2)(b) and § 87(2)(b) both interacted with PO Elvin Gomez, PO Jeremy Veit, and Lt. Osvaldo Nunez from the 33rd Precinct on May 27, 2010. Their interaction resulted in the following allegations:

- **Allegation A – Force:** At the intersection of the Harlem River Drive and West 155th Street, PO Elvin Gomez used physical force against § 87(2)(b) . § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation B – Force:** At the intersection of the Harlem River Drive and West 155th Street, PO Elvin Gomez pointed his gun at § 87(2)(b) and § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
- **Allegation C - Discourtesy:** At the intersection of the Harlem River Drive and West 155th Street, PO Elvin Gomez spoke obscenely and rudely to § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
- **Allegation D – Force:** At the intersection of the Harlem River Drive and West 155th Street, PO Jeremy Veit struck § 87(2)(b) with a blunt instrument. § 87(2)(g)
§ 87(2)(b)
- **Allegation E – Discourtesy:** At the 33rd Precinct stationhouse, Lt. Osvaldo Nunez spoke rudely and obscenely to § 87(2)(b) § 87(2)(g)
§ 87(2)(b)

Results of Investigation

Civilian Statements

Victim / Complainant: § 87(2)(b)

- § 87(2)(b) -old black male, 5'6" tall, 185 pounds, black hair, brown eyes, § 87(2)(b)

Intake Email

§ 87(2)(b)'s written complaint, which was sent to the CCRB in an email on May 29, 2010, was largely consistent with his in-person statement. One exception was § 87(2)(b)'s claim that his lip was "busted open" during the incident, an allegation that was not repeated during his in-person interview.

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on July 1, 2010, and made the following statement, which was mostly consistent with his complaint on the CCRB online website. On May 27, 2010, at approximately 9:00 pm, § 87(2)(b) was standing under a building awning at 467 West 159th Street with four male acquaintances. It was raining outside and the five men were standing under the awning to stay dry. § 87(2)(b)'s mother, § 87(2)(b) is a resident of § 87(2)(b) § 87(2)(b), the building directly adjacent to § 87(2)(b) § 87(2)(b), but § 87(2)(b) was not allowed to stay with his mother at that time as he had recently been involved in a dispute with her. § 87(2)(b) had threatened to obtain a restraining order against her son, but § 87(2)(b) did not know at the time whether such an order had been obtained. He later learned that it had not.

§ 87(2)(b) had been under the awning talking to his friends for between thirty and sixty minutes when a dark, unmarked Chevrolet Impala pulled up on the street and two officers dressed in plainclothes exited the vehicle. § 87(2)(b) had his back to the vehicle and didn't see it clearly. He turned slightly, enough to see that it was an unmarked police vehicle, and saw PO Gomez, an officer who he described as a Hispanic male dressed in plainclothes who stood 5'9" to 5'10" tall, with a muscular build, bald, and with black tribal tattoos on one or both forearms. He appeared to be in his early thirties and wore no glasses or jewelry. PO Gomez came from the driver's seat around the vehicle and pointed toward § 87(2)(b) while saying, "You!" There was another officer in the passenger seat who also exited the vehicle, identified as PO Veit. § 87(2)(b) described PO Veit as a white male dressed in a white T-shirt, tan shorts, and tennis shoes. He stood 5'11" to 6'0" feet tall and had straight brown hair. He appeared to be between thirty and forty years old.

When § 87(2)(b) saw PO Gomez pointing at the group and calling out to them, he assumed the officers were coming for him because his mother had seen him outside and called the police. He decided to run to avoid being arrested. He headed east on West 159th Street until it met Edgecombe Avenue, where he turned and ran south. § 87(2)(b) kept to the sidewalk to some extent until he came upon the large park area that divides Edgecombe Avenue from Harlem River Drive. He crossed the park and continued south until he reached the intersection of Edgecombe Avenue and Harlem River Drive, which meet in a "V" at West 155th Street. When he came upon the "V" § 87(2)(b) crossed Harlem River Drive and then moved north along the sidewalk on the east side of Harlem River Drive. He had covered about fifty meters on Harlem River Drive when he noticed the Impala speeding up the street as though it was about to cut him off. § 87(2)(b) saw that the vehicle was far enough ahead that the officer inside would be able to exit the vehicle and physically block him, so he gave up and stopped running. He was on the sidewalk, which was separated from the street and the police vehicle by a concrete barricade that ended slightly lower than hip-height on § 87(2)(b).

PO Gomez exited the Impala and pointed his gun toward § 87(2)(b) while instructing him to lower his body to the ground. § 87(2)(b) knelt down in accordance with PO Gomez's instructions and ended up lying face-down on the ground with his hands folded over the back of his head. Once he was on the ground, PO Gomez ran to his back and put one hand on his, while using the other hand to punch § 87(2)(b) twice on the right side of the head. One blow fell above § 87(2)(b)'s right eye above the temple, and § 87(2)(b) attempted to block the second punch with one of his hands, so it missed slightly and glanced off of § 87(2)(b)'s cheek. PO Gomez then placed him in handcuffs.

When § 87(2)(b) was secured, PO Gomez lifted him by the hands until he was in a standing position, and then walked him to the concrete barrier so that he could step over it and get into the police vehicle, which was still stopped on Harlem River Drive. PO Gomez lifted § 87(2)(b) by the hands, from the back, but didn't give him any verbal instructions, and the result was that § 87(2)(b)'s body lifted slightly but he fell over the barricade, bent forward at the waist. As he fell he hit the right side of his head on the pavement on the other side of the barricade. He looked to his left and saw PO Veit jogging toward him. PO Veit was reaching in his waistband for a cylindrical object, but § 87(2)(b) could not tell what it was. PO Veit continued to run and held the object in his hand. When he reached § 87(2)(b) he hit him in the back of the head with the object. The object rolled out of PO Veit's hand and onto the ground, and § 87(2)(b) could see that it was a flashlight. He remained conscious, and later noticed that the flashlight caused a bump on the back of his head that bled slightly. He did not notice the bleeding until later, when he was inside a police vehicle waiting to be transported to the stationhouse.

By this point, marked units had begun to arrive, and PO Gomez and PO Veit left § 87(2)(b) hanging over the barricade until a prisoner van came and they led him into it. He was

searched, and officers found empty Ziploc bags often used in the distribution of narcotics in each of his pockets. The bags were unused and had no narcotic residue, but § 87(2)(b) was advised that they were considered paraphernalia and that he would be charged. Inside the prisoner van, § 87(2)(b) could see through the windshield that a man identified by the investigation as § 87(2)(b) (and referred to by § 87(2)(b) as § 87(2)(b) was arguing with one of the officers. § 87(2)(b) had never met § 87(2)(b) and had no relationship with him prior to the incident. § 87(2)(b) said something about the officers being wrong, and appeared to be calling someone on his mobile phone. § 87(2)(b) thought he heard § 87(2)(b) say something about calling a high ranking member of service, possibly a relative of his.

§ 87(2)(b) felt dizzy due to the blow to his head, which was now bleeding, and he requested medical attention. He was brought back to the 33rd Precinct stationhouse holding cells, where he waited until maybe 12:00 am or 1:00 am to be transported to § 87(2)(b). When EMS came to transport him, they placed him on a stretcher, and as they carried him past one of the cells, he saw § 87(2)(b) inside. He had not spoken to § 87(2)(b) during the incident, but he did now and found out that § 87(2)(b) had been arrested when he came to the stationhouse to complain. § 87(2)(b) told him his name, and § 87(2)(b) left for the hospital.

At the hospital, it was determined that he had a laceration and a large bump on the back of his head but that he did not require stitches. Once he was cleared medically, it took approximately half an hour before an officer told him that the DA would not prosecute him and that he was free to go. He was released with no paperwork with the exception of a property receipt for \$94.00 in US currency. § 87(2)(b) said that he had been in possession of \$150.00 and was missing the difference. The missing property complaint was referred to IAB under case number 201009217 on July 1, 2010.

Statements to Medical Provider

At § 87(2)(b), § 87(2)(b) complained of head and neck pain and said that he had fallen during an altercation. He also complained of blows to the head and dizziness, and told a provider, "I hurt my neck in a fall." He did not complain of bruising or lacerations, and no bleeding was noted either to his lip or to the area at the back of his head where he said that he had been struck.

Complainant / Victim: § 87(2)(b)

- § 87(2)(b) -old black male, bald, 6'1", 194 pounds, brown eyes, § 87(2)(b)

IAB Complaint

On May 28, 2010, § 87(2)(b) called 911 and was transferred to the IAB command center, where he reported that he had witnessed police brutality at the incident location. He observed a man identified by IAB as § 87(2)(b) run from a marked police car and jump over a traffic barrier. He was immediately apprehended by PO Gomez, who punched him in the head. § 87(2)(b) reported no injuries. He claimed that an officer "cursed" at him but did not specify the word used.

Telephone Statement

§ 87(2)(b) made a telephone statement on June 3, 2010, § 87(2)(g). He said that while § 87(2)(b) was standing near the concrete barrier, PO Gomez punched him in the face multiple times and "dropped him." § 87(2)(b) shouted that his finger felt as though it was broken, and § 87(2)(b) observed that it appeared to be broken. PO Gomez handcuffed § 87(2)(b) and continued to punch him after he was handcuffed. After a moment a cab came to pick up § 87(2)(b) (he had called for a car and was waiting for it when he noticed the incident) and both he and the cab driver yelled to PO Gomez, "Enough is enough,

he's already handcuffed." PO Gomez then pointed his gun in § 87(2)(b)'s face and told him to "get the fuck off the bridge and get in the cab." § 87(2)(b) appeared to have a bloody lip, a nosebleed, and a broken finger.

CCRB Statement

§ 87(2)(b) made a statement at the CCRB on June 23, 2010, § 87(2)(g). § 87(2)(b) had called a cab and was waiting for it on the north east corner of the intersection of West 155th Street and St. Nicholas Avenue in Manhattan, in one of the pedestrian lanes on the ramp leading to the George Washington Bridge (the incident occurred at an on-ramp to the Harlem River Drive that was not close to the entrance of the George Washington Bridge, but § 87(2)(b) referred to it as such in his statement). He waited on a sidewalk that was bordered by a concrete traffic barrier. While he waited, § 87(2)(b) saw PO Gomez running down the street in pursuit of § 87(2)(b).

PO Gomez chased § 87(2)(b) and pulled him to the ground on the street side of the traffic barrier immediately in front of § 87(2)(b) who was standing approximately two feet away on the other side of the traffic barrier. When § 87(2)(b) fell to the ground, he did so facing down, and PO Gomez jumped on top of him and placed a knee in his back. § 87(2)(b) thought PO Gomez placed § 87(2)(b) in handcuffs at this point. Then, he punched § 87(2)(b) from eight to twelve times. All of the blows hit the right side of § 87(2)(b)'s body and face, and § 87(2)(b) did not physically resist, but cried out.

While PO Gomez was punching § 87(2)(b), § 87(2)(b)'s cab pulled up to the traffic barrier, where § 87(2)(b) had asked to be picked up. When the cab pulled over, the driver immediately exited and observed § 87(2)(b) and PO Gomez. § 87(2)(b) and the driver both addressed PO Gomez and said something to the effect of, "Enough. He's already handcuffed." § 87(2)(b) noticed PO Veit approaching, but before he arrived, § 87(2)(b) told PO Gomez, "I'm calling 911 on you for a supervisor. That's enough."

When § 87(2)(b) threatened to call 911, PO Gomez stopped punching § 87(2)(b) and pointed his gun directly at § 87(2)(b) while saying, "Get your nosy ass in the cab or you've got more coming." § 87(2)(b) moved toward the cab, and PO Gomez went back to handcuffing and transporting § 87(2)(b) who was now bleeding and had a split lip. At this point, PO Veit arrived at the intersection and told § 87(2)(b) when asked that he and PO Gomez were assigned to the 33rd Precinct.

While inside the cab, § 87(2)(b) called 911 and reported the incident to an operator from IAB. The call was disconnected before he could say what happened, but an IAB investigator called him back. He complained about the incident, then went to the 33rd Precinct stationhouse, where he arrived at approximately 9:15 pm. He entered the 33rd Precinct stationhouse and approached the front desk, where he spoke to Lt. Nunez. Lt. Nunez listened to § 87(2)(b)'s account of the incident and then told him that he was going to lock him up for "distracting the officer." § 87(2)(b) protested, but Lt. Nunez repeated the comment about distracting his officer several times, then instructed a male officer to search § 87(2)(b) and bring him to the cell area. The officer discovered a small pocketknife in § 87(2)(b)'s back pocket. Lt. Nunez said, "You've got some balls to come complain to me with a knife in your back pocket."

Attempts to Contact Civilians

Because § 87(2)(b) refused to provide any information for the livery car company that he patronized prior to the incident, it was impossible to identify or contact the livery car driver who witnessed the incident. The investigation obtained § 87(2)(b)'s mobile phone records, which showed no call to a cab company around the time of the incident. § 87(2)(b) identified the friends with whom he was standing prior to the incident, but no attempts were made to contact

them as they did not witness any misconduct, only § 87(2)(b)'s initial flight from West 159th Street.

NYPD Statements:

Subject Officer: PO ELVIN GOMEZ

- § 87(2)(b) -old Hispanic male, 5'7" tall, 187 pounds, black hair, brown eyes
- Assigned to 33rd Precinct Anticrime, worked from 5:30 pm until 2:05 am with PO Veit and Lt. Nunez in an unmarked vehicle, dressed in plainclothes

Online Booking Arraignments Disposition System

PO Gomez stated that § 87(2)(b) was observed blocking a building entrance then fled on foot when approached by police officers. § 87(2)(b) flailed his arms to avoid being rear-cuffed. § 87(2)(b) had drug paraphernalia (glassine bags) in his right front and right rear pockets.

Memo Book Entry, Safekeeping and Evidence Vouchers, CCRB Testimony

PO Gomez prepared a memo book entry about the incident and vouchered United States currency and glassine envelopes from § 87(2)(b) on May 27, 2010. He provided an in-person statement at the CCRB on November 16, 2010. § 87(2)(g) On May 27, 2010, at approximately 8:40 pm, PO Gomez, PO Veit, and Lt. Nunez were in a vehicle and noticed a group of men on West 159th Street standing in a group in front of a building, whom he believed were smoking marijuana. All of the officers observed this, and PO Gomez described it as, "You could tell right away what they were doing," but couldn't describe the groups' actions in more detail. They pulled over and exited the police vehicle with the intention of approaching the group, and Lt. Nunez verbally identified himself as an officer. Before he could speak to any of the members of the group, § 87(2)(b) broke away and ran toward Edgecombe Avenue. He dropped some clothing and several empty glassine envelopes as he ran. Lt. Nunez and PO Veit pursued § 87(2)(b) on foot, and PO Gomez took the vehicle and gave chase, with the emergency lights activated.

PO Gomez caught up to § 87(2)(b) at the speedway on West 155th Street less than a minute after he first ran. He was receiving radio communication from his partners regarding § 87(2)(b)'s movements and used this information to determine where to drive. He observed § 87(2)(b) jump over a pedestrian barrier at the north-bound entrance ramp to the Harlem River Drive. § 87(2)(b) appeared to be headed for a stairway leading to the Polo Grounds public housing complex. PO Gomez stopped the vehicle, exited, and caught § 87(2)(b) who began to scuffle. PO Gomez fell to his knees directly behind § 87(2)(b) and began to attempt to cuff him.

They had been engaged momentarily when § 87(2)(b) stepped out of a cab on the Harlem River Drive. § 87(2)(b) walked toward PO Gomez with a mobile phone in his hand § 87(2)(b)

§ 87(2)(b) said that he knew that PO Gomez was not doing his job correctly. PO Gomez had not yet successfully cuffed § 87(2)(b) and ordered § 87(2)(b) to get back, but he ignored the command. PO Veit and Lt. Nunez arrived a few moments after § 87(2)(b) approached PO Gomez. § 87(2)(b) complained about the way § 87(2)(b) was being handcuffed and said § 87(2)(b) was being beaten up. PO Gomez denied punching § 87(2)(b) at any time but acknowledged there was a struggle at this point, particularly inasmuch as § 87(2)(b) was kicking him and fighting being handcuffed. After commanding § 87(2)(b) to get back multiple times and being ignored, PO Gomez told him, "You'd better get the fuck back."

PO Gomez proceeded to cuff § 87(2)(b) § 87(2)(b) struggled against the handcuffing and then kicked and resisted when PO Gomez tried to move him over the waist-height concrete barrier to place him in the police vehicle. PO Gomez tried to move § 87(2)(b) forward, but § 87(2)(b) moved his weight to one side. § 87(2)(b)'s struggles resulted in him

falling over the barrier and landing on his buttocks. PO Gomez said § 87(2)(b) later claimed that he was struck in the head during the fall, but PO Gomez did not see his head strike the ground, nor did he or any other officer strike him with hands or a foreign object. Lt. Nunez assisted PO Gomez in lifting § 87(2)(b) up off the ground.

Throughout this, § 87(2)(b) continued to question the officers' actions and threatened to complain to the CCRB. He said that he wanted to complain because he saw PO Gomez throw § 87(2)(b) head-first over the barrier. At some point he told PO Gomez and Lt. Nunez to "fuck off" and kept repeating that they should "stand down." PO Gomez told § 87(2)(b) that they were headed to the 33rd Precinct stationhouse and provided him with the address, and § 87(2)(b) got back into his cab and left the area. PO Gomez denied pointing his gun at § 87(2)(b) § 87(2)(b) had no visible injuries.

Subject Officer: PO JEREMY VEIT

- § 87(2)(b) -old white male, 6'3" tall, 210 pounds, brown hair, blue eyes
- Assigned to 33rd Precinct Anticrime, worked from 5:30 pm until 2:05 am with PO Elvin Gomez and Lt. Nunez in an unmarked vehicle, dressed in plainclothes

Memo Book Entry, Safekeeping and Evidence Vouchers, CCRB Testimony

PO Veit prepared a memo book entry and vouchers for arrest evidence and property for § 87(2)(b) on May 27, 2010, and provided a statement to the CCRB on October 29, 2010. § 87(2)(b)

PO Veit said the large group congregating on the sidewalk with § 87(2)(b) was disrupting pedestrian traffic, and the officers intended to stop and investigate why they were standing there, then ask them to disperse. When § 87(2)(b) ran away, PO Veit and the other officers followed § 87(2)(b) in part because he was shedding layers of clothing as he fled, which raised their suspicion that he was in possession of contraband or had been involved in some kind of crime just prior to their arrival.

When PO Veit and Lt. Nunez arrived at the intersection of Harlem River Drive and West 155th Street, PO Gomez was on the ramp with § 87(2)(b) sitting beside the barrier. § 87(2)(b) had no visible injuries. PO Veit and Lt. Nunez saw § 87(2)(b) and noticed that both the cab driver stopped on the on-ramp and PO Gomez were shouting at § 87(2)(b) to get back into the car. PO Veit denied running up to § 87(2)(b) while holding something in his hand, and denied intentionally or accidentally striking § 87(2)(b) with anything.

At the 33rd Precinct stationhouse, at approximately 9:15 pm, § 87(2)(b) walked in to file a complaint about the incident. PO Veit was in the lobby with Lt. Nunez when § 87(2)(b) arrived. He was arrested and charged with disorderly conduct and harassment, as well as for a knife Lt. Nunez found in § 87(2)(b)'s pocket while searching him incident to the arrest. PO Veit was the arresting officer but was not with § 87(2)(b) continuously while he was detained in the holding cell area. He said § 87(2)(b) and § 87(2)(b) were housed together and would have had ample opportunity to discuss the incident while he was not present.

Subject Officer: LT. OSVALDO NUNEZ

- § 87(2)(b) -old Hispanic male, 6'1" tall, 233 pounds, black hair, brown eyes
- Special Operations Lieutenant, supervising Anticrime team for 33rd Precinct, worked from 5:30 pm to 2:05 am with PO Gomez, dressed in plainclothes, unmarked vehicle

Complaint Narrative / Call to IAB

CCRB Testimony

Lt. Nunez called IAB to report § 87(2)(b)'s and § 87(2)(b)'s complaints on May 28, 2010, and provided an in-person statement to the CCRB on November 16, 2010. § 87(2)(g)

§ 87(2)(g) Lt. Nunez and the Anticrime team were patrolling sector A in the 33rd Precinct due to a recent spike in robbery activity. Lt. Nunez directed PO Gomez to stop the car so he could interview the members of the group that included § 87(2)(b)

When § 87(2)(b) ran, Lt. Nunez and PO Veit caught up with PO Gomez in time to see him on the ground, struggling to handcuff § 87(2)(b) PO Gomez had so far only been able to cuff one hand, and § 87(2)(b) was lying on his stomach, struggling. § 87(2)(b) was present, yelling, screaming, and cursing at PO Gomez. He was saying things to the effect that the officers were “fucked up.” Lt. Nunez moved to assist PO Gomez with § 87(2)(b) who was on his stomach on the ground. Lt. Nunez grabbed § 87(2)(b) and stood him up on his feet and began to search him, and heard § 87(2)(b) continue to shout at PO Gomez. § 87(2)(b) had been lying on the traffic side of the barrier on the shoulder of the ramp. Lt. Nunez did not see him fall.

After § 87(2)(b) had been secured and § 87(2)(b) had left the area, PO Gomez mentioned to Lt. Nunez that prior to his arrival, § 87(2)(b) had threatened to “kick his ass” and “fuck him up.” Lt. Nunez told PO Gomez that had he known § 87(2)(b) had been making verbal threats, he would have arrested him at the scene of § 87(2)(b)'s apprehension. At the 33rd Precinct stationhouse, § 87(2)(b) appeared in the civilian waiting area and said he wanted to complain about § 87(2)(b)'s arrest. Lt. Nunez decided to arrest him for the prior threats to PO Gomez, and began by frisking him incident to the arrest, which revealed the gravity knife. He denied telling § 87(2)(b) that he “had a lot of balls” to come into the stationhouse with a weapon.

Medical Records

§ 87(2)(b) was transported to § 87(2)(b) in police custody with a chief complaint of head and neck pain and dizziness as the result of a fall during an altercation. He exhibited mildly slow responses to neurological testing but was ambulatory and showed no signs of acute distress. A CT scan was performed and showed some straightening of the cervical spine, but no compression, which indicated that a misalignment was present. There was no hemorrhage, no abnormal extra-axial fluids, and no depressed skull fractures present. § 87(2)(b) was released in ambulatory condition and left the hospital alone. No lacerations or bruising were noted.

NYPD Documents

Command Log

Command log entries were made for the arrests of § 87(2)(b) and § 87(2)(b) at 9:00 pm and 9:15 pm, respectively. Both men were noted as being in apparently normal condition. It is noted that ADA Leet Supenuder declined to prosecute the case against § 87(2)(b) at 12:30 am on May 28, 2010. § 87(2)(b) remained in custody until 4:30 am, when he was transported to Manhattan Central Booking.

Other Evidence

The investigation obtained telephone records from § 87(2)(b)'s wireless provider. There is no evidence that he called 911 or IAB between 8:00 pm and 10:00 pm on the incident date, or that an IAB investigator called him back (however, IAB records confirm that § 87(2)(b) spoke to a command center investigator prior to being arrested at the 33rd Precinct stationhouse). There was no record of a cab or livery company being called. All of the numbers listed were mobile numbers with unpublished information based in New York City. The only incoming call came at 8:35 pm and lasted for six minutes, until 8:41 pm. § 87(2)(b) exchanged a series of text messages and one outgoing call at 8:53 pm to a number linked to an individual named § 87(2)(b). § 87(2)(b) does not appear as a member of service in CTS.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- [§ 87(2)(b)] and [§ 87(2)(b)] have not filed a Notice of Claim with the City of New York as of March 8, 2011 with regard to the incident.

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- This is the first CCRB complaint filed by [§ 87(2)(b)]
- [§ 87(2)(b)] has filed the following CCRB complaints:
 - [§ 87(2)(b)]

Subject Officers CCRB History

- PO Gomez has been a member of the service for five years and there are no substantiated CCRB allegations against him.
- PO Veit has been a member of the service for six years and there are no substantiated CCRB allegations against him.
- Lt. Nunez has been a member of the service for fourteen years and there is one substantiated CCRB allegation against him.
 - 200100569: Force (radio as club) – found Not Guilty at trial

Conclusion

Identification of Subject Officers

Lt. Nunez, PO Gomez, and PO Veit all acknowledged that they interacted with [§ 87(2)(b)] and [§ 87(2)(b)] [§ 87(2)(g)]

Investigative Findings and Recommendations

Allegations Not Pleaded

[§ 87(2)(g)]

Allegation A – Force: At the intersection of the Harlem River Drive and West 155th Street, PO Elvin Gomez used physical force against [§ 87(2)(b)]

It is not in dispute that PO Gomez used some level of physical force to apprehend [§ 87(2)(b)] [§ 87(2)(g)] PO Gomez denied the particular allegation that he struck [§ 87(2)(b)] in the head several times after he was secured in handcuffs.

§ 87(2)(b) and § 87(2)(b) made the same allegation. § 87(2)(g) according to the IAB referral, he first reported this incident at 8:30 pm during which time his brief statement corroborated § 87(2)(b)'s claim that an officer punched him. § 87(2)(g) § 87(2)(b) alleged in his telephone and sworn statement that PO Gomez continued to punch § 87(2)(b) even after § 87(2)(b) was successfully subdued and placed in handcuffs. § 87(2)(b) the victim of the allegation, made no such claim. Additionally, § 87(2)(b) conceded that he and § 87(2)(b) discussed the incident while in custody, § 87(2)(g)

§ 87(2)(g) he did not describe § 87(2)(b)'s initial behavior in depth, § 87(2)(g) § 87(2)(b) said he stopped and submitted to police orders when he realized he was caught, § 87(2)(b) said that he saw § 87(2)(b) running from PO Gomez, who then tackled him to the ground, and PO Gomez said that he ran and tackled § 87(2)(b) to stop him, after which § 87(2)(b) struggled and kicked to avoid being handcuffed; though he acknowledged using force against § 87(2)(b) PO Gomez denied punching him. PO Veit said he arrived to see § 87(2)(b) sitting on the ground, handcuffed, but Lt. Nunez corroborated PO Gomez's story and said that when he arrived PO Gomez had only been able to cuff one of § 87(2)(b)'s hands. § 87(2)(g)

Allegation B – Force: At the intersection of the Harlem River Drive and West 155th Street, PO Elvin Gomez pointed his gun at § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both alleged that PO Gomez pointed his gun, but their respective allegations conflicted, with each man claiming that PO Gomez pointed his gun only at him and not at the other. PO Gomez denied drawing his weapon, and Lt. Nunez and PO Veit denied seeing PO Gomez point his gun. § 87(2)(g)

§ 87(2)(g)

Allegation C - Discourtesy: At the intersection of the Harlem River Drive and West 155th Street, PO Elvin Gomez spoke obscenely and rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Gomez told him, "Get your nosy ass back in the cab or you've got more coming." PO Gomez denied saying this, but acknowledged using profanity toward § 87(2)(b) in a different context, which § 87(2)(b) did not allege. § 87(2)(g)

§ 87(2)(g)

Allegation D – Force: At the intersection of the Harlem River Drive and West 155th Street, PO Jeremy Veit struck § 87(2)(b) with a blunt instrument.

§ 87(2)(b) alleged that PO Veit ran toward him with a flashlight in his hand as § 87(2)(b) was hanging over the concrete pedestrian barrier at Harlem River Drive. PO Veit struck § 87(2)(b) in the head with this object as he ran. § 87(2)(b) did not corroborate the allegation, PO Veit and all of the other officers interviewed denied that this occurred, § 87(2)(g)

§ 87(2)(b) claimed that this blow resulted in lacerations, but no lacerations were documented in the medical records, and his complaint to medical personnel was that he had fallen during an altercation (although he did mention “blows to the head” at some point). § 87(2)(g)

Allegation E – Discourtesy: At the 33rd Precinct stationhouse, Lt. Osvaldo Nunez spoke rudely and obscenely to § 87(2)(b)

§ 87(2)(b) alleged that Lt. Nunez told him he “had a lot of balls” to enter the 33rd Precinct stationhouse with a weapon. Lt. Nunez denied this, and PO Veit did not hear this comment. § 87(2)(g)

Team: _____1_____

Investigator: _____ Kathryn Duffy _____ March 22, 2011 _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date